

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

July 11, 2014  
Shelby D. Pugh  
U.S. District Court Clerk

Julio Santos Padilla, )  
                        )  
Plaintiff,      ) C/A No. 4:14-769-RMG  
                        )  
vs.                 )  
                        )  
Leroy Morgan, and ) ORDER  
Kenny Atkinson, Warden, )  
                        )  
Defendants.      )  
                        )

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This case is before the Court because of Plaintiff's failure to fully comply with the magistrate judge's orders of April 2, 2014, May 1, 2014, and June 4, 2014. (Dkt. Nos. 10, 15, and 23).

A review of the record indicates that on April 2, 2014, the Magistrate Judge ordered Plaintiff to submit items needed to render this case into proper form, and specifically informed Plaintiff that if he failed to do so, this case would be subject to dismissal. (Dkt. No. 10). Plaintiff partially complied. Thereafter, on May 1, 2014, the Magistrate Judge entered a second order giving Plaintiff additional time to submit the remaining items needed to render this case into proper form, and again specifically informed Plaintiff that if he failed to do so, this case would be subject to dismissal. (Dkt. No. 15). Again, Plaintiff partially complied. Finally, on June 4, 2014, the Magistrate Judge entered a third order giving Plaintiff additional time to submit the remaining items needed to render this case into proper form, and again specifically informed Plaintiff that if he failed to do so, this case would be subject to dismissal. (Dkt. No. 23). To date, the Court has not received any response from Plaintiff to this third Order, and the time for his compliance has passed.

The third Order was sent to Plaintiff at the address provided when the case was filed and has not been returned to the Court. Thus, it is presumed that Plaintiff received the third Order, but has neglected to comply with it within the time permitted under the Order.

Plaintiff's lack of response to the Order indicates an intent to not prosecute this case, and subjects this case to dismissal. See Fed. R. Civ. P. 41(b) (district courts may dismiss an action if a Plaintiff fails to comply with an order of the court.); see also Ballard v. Carlson, 882 F.2d 93, 95 (4th Cir. 1989) (dismissal with prejudice appropriate where warning given); Chandler Leasing Corp. v. Lopez, 669 F.2d 919, 920 (4<sup>th</sup> Cir. 1982) (court may dismiss sua sponte).

Accordingly, this case is dismissed without prejudice. The Clerk of Court shall close the file.

**IT IS SO ORDERED.**

July 11, 2014  
Charleston, South Carolina



The Honorable Richard M. Gergel  
United States District Judge

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this Order within the time period set forth under Rules 3 and 4 of the Federal Rules of Appellate Procedure.